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HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.16585 of 2005

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Dated:30.07.2007

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Between:

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A.Abdul Rawoof.

...Petitioner

and

The District Collector, Ananthapur District and others.

...Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.16585 of 2005

ORDER:

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This Writ Petition is filed seeking a writ of *mandamus* declaring the action of the third respondent in dispossessing the petitioner from house site patta admeasuring 21.5 square yards (20 x 40 links), as illegal, arbitrary and contrary to the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act').

It is the case of the petitioner that he was assigned the house site under the proceedings of the Mandal Revenue Officer, Kanekal, bearing No.Dis.11/1413, dated 13.10.2003, and that he constructed a house thereon. The third respondent occupied an extent of 0.25 cents and subsequently, the same was allotted to the third respondent on payment of market value by proceedings of the second respondent in Rc.(C) 432/87, dated 20.03.1993. Alleging that the petitioner occupied the land allotted to them, the third respondent filed O.S.No.225 of 1995 on the file of the Court of the Junior Civil Judge, Rayadurg, for declaration of title and possession. The suit was dismissed on 29.02.2000. Aggrieved by the same, the third respondent filed A.S.No.75 of 2000 on the file of the Court of the III Additional District Judge, Ananthapur. The appeal was allowed on 18.02.2003. In execution of the same, the third respondent filed E.P.No.24 of 2005 for possession. At that stage, the present Writ Petition is filed mainly contending that in view of the provisions of the Act, the decree obtained by the third respondent cannot be executed and the assignee

cannot be dispossessed.

This Court admitted the Writ Petition and granted interim order on 28.07.2005. The third respondent moved W.V.M.P.No.2273 of 2005 for vacating the interim order. At that stage itself, the matter is heard finally with the consent of the learned Counsel for the rival parties and is being disposed of by this order.

The only contention pressed in support of the Writ Petition is that when once the land is assigned, the same cannot be transferred even in execution of a decree to a person, who is not landless poor person. Reliance is placed upon a judgment of this Court in **Vaka**

Punnamma v. Yadavali Jurala Narasimham^[1]. **Opposing** the Writ Petition, learned Counsel for the third respondent submits that this Writ Petition is filed to prevent the third respondent from executing the decree and that such Writ Petition would not lie.

There cannot be any doubt that a Writ Petition to prevent the execution of a decree passed by the civil Court, ordinarily would not lie. All questions in relation to execution or objections for execution should be raised before the executing Court. There is no denial that the third respondent was successful in A.S.No.75 of 2000 and immediately, they filed E.P.No.24 of 2005 on the file of the Court of the Junior Civil Judge, Rayadurg. If the petitioner is aggrieved by such execution, his remedy is to approach the civil Court, raise all objections and bring to the notice of the executing Court of the decision of this Court in **Vaka Punnamma's** case (supra) or any decision of this Court. A *mandamus* prohibiting the executing Court to execute a decree cannot be issued. Liberty is given to the petitioner to raise all the objections before the executing Court.

With the above observations, the Writ Petition is dismissed. No costs.

(V.V.S.RAO, J)

30.07.2007

GJ

[\[1\]](#) 2001 (1) ALD 306